



General Assembly

Amendment

January Session, 2001

LCO No. 7602

Offered by:

REP. BOUCHER, 143rd Dist.

REP. FREY, 111th Dist.

REP. CAFERO, 142nd Dist.

REP. FLAHERTY, 68th Dist.

To: Subst. Senate Bill No. 1394

File No. 628

Cal. No. 522

"AN ACT CONCERNING PROCEDURES FOR STATE EMPLOYEE COLLECTIVE BARGAINING."

1 Strike out section 1 in its entirety and substitute the following in lieu
2 thereof:

3 "Section 1. Section 5-276a of the general statutes is repealed and the
4 following is substituted in lieu thereof:

5 (a) In the event that either the employer, as defined in subsection (a)
6 of section 5-270, or a designated employee organization, as defined in
7 subsection (d) of said section, may desire negotiations with respect to
8 an original or successor collective bargaining agreement, such party,
9 not more than [one hundred eighty] three hundred thirty days prior to
10 the expiration of the existing collective bargaining agreement nor less
11 than one hundred fifty days prior thereto, shall serve written notice
12 thereof upon the other party. Negotiations shall commence within

13 thirty days of such service. Negotiations as to wage reopeners shall
14 commence within twenty days of receipt by one party of a written
15 notice with respect thereto, served in accordance with the provisions of
16 any such reopener in the affected contract or, if none is stated therein,
17 not more than sixty days nor less than thirty days prior to the effective
18 date of such reopener.

19 (b) Upon the joint request of the parties, following the
20 commencement of good faith negotiations, the State Board of
21 Mediation and Arbitration may designate a mediator to assist the
22 parties in continuing such negotiations and in reaching a settlement of
23 the issues presented in such negotiations. The mediator designated
24 shall be experienced in labor mediation and shall be drawn from lists
25 of such mediators maintained by the board, the American Arbitration
26 Association or the Federal Mediation and Conciliation Service. The
27 mediator so designated may only serve if approved by both parties.

28 (c) If, after a reasonable period of negotiation, or, in the case of
29 negotiations by the parties to an existing collective bargaining
30 agreement to revise such agreement concerning any matter affecting
31 wages, hours and other conditions of employment, after [~~ninety~~] sixty
32 days from the commencement of such negotiations, the parties are
33 unable to reach an agreement, both parties or either of them may
34 initiate arbitration by filing with the State Board of Mediation and
35 Arbitration a list of the issues as to which an impasse has been
36 reached. If such filing is not made jointly, a copy of the filing shall be
37 served on the other party.

38 (d) Within ten days of a joint filing or within ten days of service on
39 the other party in the case of a single filing, the parties shall jointly
40 select an arbitrator. The person selected shall have substantial, current
41 experience as an impartial arbitrator of labor-management disputes.
42 Persons who serve partisan interests as advocates or consultants for
43 labor or management in labor-management relations or who are
44 associated with or are members of a firm which performs such
45 advocate or consultant work may not be selected. If the parties fail to

46 agree on an arbitrator within the ten-day period, the selection shall be
47 made using the procedures under the voluntary labor arbitration rules
48 of the American Arbitration Association.

49 (e) (1) The arbitrator selected shall contact the parties to schedule
50 dates and places for hearings which shall commence not later than
51 twenty days after the selection of the arbitrator and which shall be,
52 where feasible, in the principal locality of the state board, department,
53 commission or agency or unit thereof involved. At least ten days prior
54 to each such hearing, written notice of the designated time and place of
55 such hearing shall be sent to the state employer and the state employee
56 organization. The arbitrator shall preside over such hearings, shall
57 have the power to take testimony, to administer oaths and to summon,
58 by subpoena, any person whose testimony may be pertinent to the
59 proceedings, together with any records or other documents deemed by
60 the arbitrator to relate to such matters. In the case of contumacy or
61 refusal to obey a subpoena issued to any person, the Superior Court,
62 upon application by the arbitrator or either party, shall have
63 jurisdiction to order such person to appear before the arbitrator to
64 produce subpoenaed records and to give testimony touching the
65 matter under investigation or in question, and any failure to obey such
66 order may be punished by the court as a contempt thereof. The parties
67 may, at any time during the course of the proceeding, jointly request
68 the arbitrator to attempt to mediate any or all of the disputed issues.

69 (2) The hearings may, at the discretion of the parties or the
70 arbitrator, be continued and shall be concluded within thirty days after
71 their commencement, unless such period is extended by the joint
72 request of the parties. [or by the arbitrator.]

73 (3) Prior to the commencement of the hearings, each party shall
74 submit to the arbitrator three copies of a list of all resolved and
75 unresolved issues, including the party's proposal on each disputed
76 issue. During the hearing no new issues can be considered unless such
77 addition is mutually agreed to by the parties. Upon receipt of both
78 such lists, the arbitrator shall simultaneously distribute a copy of each

79 to the opposing party. Upon the hearing, each party shall present such
80 testimony and other evidence as it deems appropriate and as the
81 arbitrator finds relevant to the issues presented. Evidence as to each
82 disputed issue shall be presented first by the party presenting the
83 demand underlying such issue. At any time prior to the issuance of the
84 award by the arbitrator, the parties may jointly file with the arbitrator
85 stipulations setting forth such disputed issues the parties have agreed
86 are to be withdrawn from arbitration. Within fourteen days after the
87 conclusion of the taking of testimony, the parties may file with the
88 arbitrator three copies of their briefs including their last best offer on
89 each unresolved issue and, where possible, estimates of the costs of
90 resolution of each disputed issue. Immediately upon receipt of both
91 briefs or upon the expiration of the time for filing such briefs,
92 whichever is sooner, the arbitrator shall distribute a copy of each such
93 brief to the opposing party. Within seven days after receipt of the
94 opposing briefs on the disputed issues or within seven days after the
95 expiration of the time for filing such briefs, whichever is sooner, the
96 parties may file with the arbitrator three copies of a reply brief,
97 responding to the briefs on the unresolved issues. Immediately upon
98 receipt of both reply briefs or upon the expiration of the time for filing
99 such briefs, whichever is sooner, the arbitrator shall distribute a copy
100 of each such brief to the opposing party.

101 (4) Within twenty days after the last day for filing reply briefs, the
102 arbitrator shall file with the secretary of the State Board of Mediation
103 and Arbitration the award on each unresolved issue as well as the
104 issues resolved by the parties during the arbitration proceedings. The
105 arbitrator shall immediately and simultaneously distribute a copy
106 thereof to each party. In making such award, the arbitrator shall select
107 the more reasonable last best offer proposal on each of the disputed
108 issues based on the factors in subdivision (5) of this subsection. The
109 arbitrator (A) shall give a decision as to each disputed issue
110 considered, (B) shall state with particularity the basis for such decision
111 as to each disputed issue and the manner in which the factors
112 enumerated in subdivision (5) of this subsection were considered in

113 arriving at such decision, (C) shall confine the award to the issues
114 submitted and shall not make observations or declarations of opinion
115 which are not directly essential in reaching a determination, and (D)
116 shall not affect the rights accorded to either party by law or by any
117 collective bargaining agreement nor in any manner, either by drawing
118 inferences or otherwise, modify, add to, subtract from or alter such
119 provisions of law or agreement. If the day for filing any document
120 under this subsection falls on a day which is not a business day of the
121 State Board of Mediation and Arbitration, then the time for filing shall
122 be extended to the next business day of the board.

123 (5) The factors to be considered by the arbitrator in arriving at a
124 decision are: The history of negotiations between the parties including
125 those leading to the instant proceeding; the existing conditions of
126 employment of similar groups of employees; the wages, fringe benefits
127 and working conditions prevailing in the labor market; the overall
128 compensation paid to the employees involved in the arbitration
129 proceedings, including direct wages compensation, overtime and
130 premium pay, vacations, holidays and other leave, insurance,
131 pensions, medical and hospitalization benefits, food and apparel
132 furnished and all other benefits received by such employees; the ability
133 of the employer to pay; changes in the cost of living; and the interests
134 and welfare of the employees.

135 (6) The award of the arbitrator shall be final and binding upon the
136 employer and the designated employee organization unless rejected by
137 the legislature as provided in section 5-278, except that a motion to
138 vacate or modify the arbitrator's decision concerning any issue in such
139 award may be filed in the superior court for the judicial district of
140 Hartford within thirty days following receipt of such award. Such
141 motion to vacate or modify shall identify the specific issue or issues in
142 the award which the court is being asked to vacate or modify. Any
143 decision by the arbitrator on issues that are not subject to a motion to
144 vacate or modify shall be final and binding upon the parties. The court,
145 after hearing, may vacate or modify the arbitrator's decision
146 concerning any issue in the award if the court finds that substantial

147 rights of a party have been prejudiced because such award is: (A) In
148 violation of constitutional provisions; (B) in excess of the statutory
149 authority of the arbitrator; (C) made upon unlawful procedure; (D)
150 affected by other error of law; (E) clearly erroneous in view of the
151 reliable, probative and substantial evidence of the whole record; or (F)
152 arbitrary or capricious or characterized by abuse of discretion or
153 clearly unwarranted exercise of discretion.

154 (7) The secretary of the State Board of Mediation and Arbitration
155 shall serve as staff to the arbitrator for purposes of all proceedings
156 undertaken pursuant to this subsection.

157 (f) The arbitrator's fees and itemized expenses, the rental, if any, of
158 the facilities used for the hearing and the cost of the transcript, if any,
159 of the proceedings shall be divided equally between the employer and
160 the designated employee organization.

161 (g) Any or all of the timing requirements established in this section
162 that are imposed upon the parties may be waived by agreement of the
163 parties or by [request] a ruling of the arbitrator. Any or all of the
164 timing requirements established in this section that are imposed upon
165 the arbitrator may be waived by agreement of the parties."